



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201635
Complainant:	Shenzhen Relx Technology Co., Ltd
Respondent:	Mills RELX
Disputed Domain Name(s):	<relxnowaustralia.com>

1. The Parties and Contested Domain Name

The Complainant is Shenzhen Relx Technology Co., Ltd, of Rm B-208, BLD A, 2F, Vanke Yunchang, Bodun Tech. Park, Chaguang Rd, Xili Subdistrict, Nanshan Dist., Shenzhen, Guangdong 518055, CN.

The Respondent is Mills RELX, of Room 603, 3 Huang Bei Ling, Luohu Qu, Shenzhen Shi Guangdong Sheng 518000, China.

The domain name at issue is <relxnowaustralia.com>, registered by the Respondent with Dreamscape Networks International Pte Ltd, of 3 Irving Road, #09-01 Tai Seng Centre 369522 Singapore.

2. Procedural History

The Complainant filed the Complaint with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre on 4 July 2022 in accordance with the Uniform Policy for Domain Name Dispute Resolution approved by the Internet Corporation for Assigned Names and Numbers ("ICANN") on 24 October 1999 (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy approved by the ICANN Board of Directors on 28 September 2013 (the "Rules") and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the "Supplemental Rules").

On 6 July 2022, the Hong Kong Office acknowledged receipt of the Complaint and sent an email to the Registrar requesting verification of information regarding the domain name at issue. On 14 July 2022, the Registrar sent a confirmation email disclosing registrant and contact information for the disputed domain name that differed from the named respondent and contact information in the Complaint. On 16 July 2022, the Center sent an email to the Complainant providing the registrant and contact information disclosed by the Registrar and requiring the Complainant to update the information regarding the Respondent in the Complaint.

The Hong Kong Office confirmed that the Complaint, as amended, was in administrative compliance with the Policy and the Rules. On 22 July 2022, the Hong Kong Office sent the Respondent a written notice of the Complaint, informing it that it was required to submit a Response within 20 days (that is, on or before 11 August 2022). The Hong Kong Office did not receive a Response from the Respondent regarding the Complaint. Accordingly, on 12 August 2022, the Hong Kong Office notified the parties of the Respondent's default.

On 12 August 2022, the Hong Kong Office appointed Dr. Joseph Leung as the sole Panelist in this dispute, who confirmed that he was available to act independently and impartially between the Parties in this matter. On the same day, the Hong Kong Office transferred the case file to the Panel.

3. Factual background

The Complainant Shenzhen Relx Technology Co., Ltd (Chinese name: 深圳雾芯科技有限公司) is the owner of trademark registrations for its RELX brand across various jurisdictions. The below table has summarized the trademarks registered by the Complainant, they are China's Trademark Office of National Intellectual Property Administration ("CNIPA"), IP Australia ("IPAU"), the United States Patent & Trademark Office ("USPTO") and European Union's Intellectual Property Office ("EUIPO"), which demonstrate that the Complainant has spent a considerable amount of time and money protecting its intellectual property rights. These registrations are referred to hereafter as the "RELX trademark" or "Complainant's trademark." The trademark registrations relevant to this instant matter are:

TRADEMARK	JURISDICTION / TM OFFICE	REGISTRATION NUMBER	REGISTRATION DATE	IC CLASS
RELX & Design	CN / CNIPA	28527765	2018-12-07	034
RELX & Design	AU / IPAU	1954762	2018-09-12	034
RELX & Design	AU / IPAU	2036259	2019-09-11	034
RELX & Design	US / USPTO	5818187	2019-07-30	034
RELX & Design	EM / EUIPO	017652439	2018-05-18	034

The Complainant is a leading e-vapor company based in Shenzhen, China. Its primary operations include the research, development, manufacturing and distribution of its RELX 悦刻 brand of e-vapor products. Complainant sells its e-vapor products to adult smokers (of legal age of 18 years old and above) through an integrated offline distribution and "branded store plus" retail model which is tailored to China's consumer e-vapor market. Complainant also actively pursues valuable scientific research and development to further understand and minimize the health risks associated with e-vapor products.

The Complainant (NYSE: RLX) is committed to building and strengthening its trusted brand by consistently uploading and practicing ethical principles. This include promoting the prevention of underage use of its products through a number of key initiatives e.g. the

technology-driven Sunflower System in collaboration with its network of distributors, retailers and partners. Complainant also actively supports a variety of social responsibility initiatives relating to anti-counterfeiting, environmental protection and charity. Complainant's RELX brand is well known among its users, distributors, retailers and industry peers for its association with social responsibility.

Complainant operates the website at its primary domain name <relxtech.com>. According to Similarweb.com, Complainant's primary website <www.relxtech.com> is ranked 9,849th most popular website in China. It received over 193,000 visitors in May 2022.

The Respondent is an individual resident in China.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, with trademark [RELX and design] registration number 1954762 and trademark [RELX and design] registration number 2036259.
- ii. The Respondent has no rights or legitimate interests in respect of the domain name(s), the Complainant has not authorized the Respondent to use their trademark.
- iii. The disputed domain name(s) has/have been registered and is/are being used in bad faith. It is found the Respondent has created a domain name that is confusingly similar to Complainant's trademark. Besides, the Respondent's email address "relxtech.australia@gmail.com" has incorporated the dominant portion of Complainant's primary domain name <relxtech.com>, that created significant familiarity with Complainant's brand and business, and also primary domain name <relxtech.com> and its authorized partner's domain name <relxaustralia.com>.

B. Respondent

The Respondent's contentions may be summarized as follows:

- i. The Respondent did not reply to the Complainant's contentions within the Response Period.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

With reference to the Complainant's information, it is found that RELX trademark has been successfully registered in numerous countries. Since 2018, the Complainant has sold its goods and services with this trademark, which is prior to the Respondent's registration of the Disputed Domain Name.

The Disputed Domain Name has added the generic term "now" and geographical term "Australia" to the end of Complainant's RELX trademark, this arrangement has confusingly similar to Complainant's domain name <relxaustralia.com> (operated by Complainant's authorized partner).

It is found the content of the website associated with Disputed Domain Name is very similar to the Complainant's website design, thus contributing to confusion by the target audience, and it also appears prima facie that the Respondent seeks to target a trademark via the disputed domain name.

As a result, the Respondent's use of the Disputed Domain Name to resolve to a website that passes off as Complainant or its affiliate is further evidence that the Disputed Domain Name is confusingly similar to Complainant's trademark.

The Respondent's domain name is identical or confusingly similar to the Complainant's trademark, and it has been found the Complainant has fulfilled the requirement in Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

According to the Complainant, the Respondent is not an authorized reseller or distributor for the Complainant. Therefore, the burden of proof shifts to the Respondent to prove that the Respondent has rights or legitimate interests. According to paragraph 4(c)(i) of the Policy, the Respondent can demonstrate rights and legitimate interests through the use of the Dispute Domain Name in connection with a bona fide offering of goods or services before any notice of the dispute. The website to which the Disputed Domain Name resolves to purports to offer the Complainant's products. The possible argument that the Respondent is making a bona fide offering of goods may be analysed in line with *Oki Data Americas, Inc v. ASD, Inc.*, WIPO Case No. D2001-0903 (the "Oki Data test").

According to the *Oki Data test*, the following requirements have to be met;

1. The Respondent must actually be offering the goods or services at issue;
2. The Respondent must use the site to sell only the trademarked goods;
3. The site must accurately disclose the registrant's relationship with the trademark owner; and
4. The Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name (see *Oki Data Americas, Inc v. ASD, Inc.*, *supra*).

The Respondent is not making a bona fide offering of the Complainant's trademarked goods because the Respondent has failed to meet the third criteria of the *Oki Data* Test, by failing to accurately disclose the Respondent's relationship with the Complainant. The website at the Disputed Domain Name does not have visible disclaimer stating that the website is neither endorsed nor sponsored by the Complainant.

The Respondent is not making a bona fide offering of goods or services or legitimate, non-commercial fair use of the Disputed Domain Name. The Disputed Domain Name is in connection with a commercial website featuring Complainant's logo, and attempting to offer potentially counterfeited or unauthorized products.

The Complainant has granted the registrations by CNIPA, IPAU, USPTO and EUIPO, and first use in commerce of its trademark in July 2018, which prove the RELX trademark is prima facie evidence of the validity of the terms "relx" as a trademark, and allow the Complainant's exclusive right to use the RELX trademark in goods and services. The Disputed Domain Name registered by the Respondent is 11 July 2020, which is after the Complainant's registrations of its RELX trademark.

The Complainant has fulfilled the requirement in Paragraph 4(a)(ii) of the Policy, that the Respondent has no rights or legitimate interest in relation to the domain name.

C) Bad Faith

In Australia, Complainant's authorized partner operates the website at the domain name <relxaustralia.com>. By registering a domain name that incorporates the term RELX with the addition of the generic term "now" and geographical term "australia", Respondent has created a domain name that is confusingly similar to Complainant's trademark.

The Respondent's email address "relxtech.australia@gmail.com" has obviously incorporated a dominant portion of Complainant's core domain name <relxtech.com> and its authorized partner's domain name <relxaustralia.com>. The Respondent's website contents has also offered the sale of goods which are identical to Complainant's goods and bearing Complainant's brand. All this evidence points toward bad faith to the Complainant's brand.

Paragraph 4(b)(iv) of the Policy states that bad faith in the registration and use of a domain name can be established by evidence that demonstrates that "by using the domain name, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site..., by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on [the Respondent's] web site or location."

The Respondent has registered and used the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy, fulfilling the requirement in paragraph 4(a)(iii) of the Policy

As such, the Complainant has fulfilled the three requirements in Paragraph 4(a) of the Policy.

6. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the disputed domain name <relxnowaustralia.com> be transferred to the Complainant.



Dr Joseph Leung
Panelist

Dated: 26th August 2022